

5 DECEMBER 2025

ORDER

**ALLEGATIONS OF GENOCIDE UNDER THE CONVENTION ON THE
PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE**

(UKRAINE v. RUSSIAN FEDERATION)

COUNTER-CLAIMS

**ALLÉGATIONS DE GÉNOCIDE AU TITRE DE LA CONVENTION POUR
LA PRÉVENTION ET LA RÉPRESSION DU CRIME DE GÉNOCIDE**

(UKRAINE c. FÉDÉRATION DE RUSSIE)

DEMANDES RECONVENTIONNELLES

5 DÉCEMBRE 2025

ORDONNANCE

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INTERNATIONAL COURT OF JUSTICE

YEAR 2025

**2025
5 December
General List
No. 182**

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Present: *President* IWASAWA; *Vice-President* SEBUTINDE; *Judges* TOMKA, ABRAHAM, XUE, BHANDARI, NOLTE, CHARLESWORTH, BRANT, GÓMEZ ROBLEDO, CLEVELAND, TLADI, HMOUD; *Judges ad hoc* DAUDET, TUZMUKHAMEDOV; *Registrar* GAUTIER.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of the Statute of the Court and to Article 80 of the Rules of Court,

Makes the following Order:

1. On 26 February 2022, Ukraine filed in the Registry of the Court an Application instituting proceedings against the Russian Federation concerning “a dispute . . . relating to the interpretation, application and fulfilment of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide” (hereinafter the “Genocide Convention” or the “Convention”).

2. In its Application, Ukraine sought to found the Court's jurisdiction on Article 36, paragraph 1, of the Statute of the Court and on Article IX of the Genocide Convention.

3. Together with the Application, Ukraine submitted a Request for the indication of provisional measures, referring to Article 41 of the Statute and to Articles 73, 74 and 75 of the Rules of Court.

4. At the time of the filing of the Application, the Court included upon the Bench a judge of the nationality of the Russian Federation, but not a judge of Ukrainian nationality. Ukraine thus proceeded to exercise the right conferred upon it by Article 31, paragraph 2, of the Statute of the Court to choose a judge *ad hoc* to sit in the case; it chose Mr Yves Daudet.

5. By an Order dated 16 March 2022, the Court indicated the following provisional measures:

“(1) The Russian Federation shall immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine;

(2) The Russian Federation shall ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control or direction, take no steps in furtherance of the military operations referred to in point 1 above;

(3) Both Parties shall refrain from any action which might aggravate or extend the dispute before the Court or make it more difficult to resolve.”

6. Pursuant to the instructions of the Court under Article 43, paragraph 1, of the Rules of Court, the Registrar addressed to States parties to the Genocide Convention the notification provided for in Article 63, paragraph 1, of the Statute of the Court. In addition, in accordance with Article 69, paragraph 3, of the Rules of Court, the Registrar addressed to the United Nations, through its Secretary-General, the notification provided for in Article 34, paragraph 3, of the Statute of the Court.

7. By an Order dated 23 March 2022, the Court fixed 23 September 2022 and 23 March 2023 as the respective time-limits for the filing of the Memorial of Ukraine and the Counter-Memorial of the Russian Federation. The Memorial of Ukraine was filed within the time-limit thus fixed.

8. On 3 October 2022, within the time-limit prescribed by Article 79*bis*, paragraph 1, of the Rules of Court, the Russian Federation raised preliminary objections to the jurisdiction of the Court and the admissibility of the Application. Consequently, by an Order of 7 October 2022, the Court fixed 3 February 2023 as the time-limit within which Ukraine could present a written statement of its observations and submissions on the preliminary objections raised by the Russian Federation. Ukraine filed its written statement within the time-limit thus fixed.

9. Between 21 July and 15 December 2022, 33 States filed Declarations of intervention under Article 63, paragraph 2, of the Statute of the Court. By an Order dated 5 June 2023, the Court decided

that the Declarations of intervention submitted by 32 States were admissible at the preliminary objections stage of the proceedings in so far as they concerned the construction of Article IX and other provisions of the Genocide Convention that were relevant for the determination of the jurisdiction of the Court, while one was inadmissible (*Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation), Admissibility of the Declarations of Intervention, Order of 5 June 2023, I.C.J. Reports 2023 (II)*, pp. 378-379, para. 102). The States whose Declarations of intervention had been deemed admissible at the preliminary objections stage of the proceedings duly filed the written observations on the subject-matter of their interventions, referred to in Article 86, paragraph 1, of the Rules of Court.

10. Public hearings on the preliminary objections raised by the Russian Federation were held on 18, 19, 20, 25 and 27 September 2023. In its Judgment dated 2 February 2024, the Court found that it had jurisdiction, on the basis of Article IX of the Genocide Convention, to entertain submission (b) in paragraph 178 of the Memorial of Ukraine, asking the Court to “[a]djudge and declare that there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine”, and that the submission in question was admissible. It found, however, that submissions (c) and (d) in paragraph 178 of Ukraine’s Memorial fell outside the scope of the compromissory clause in Article IX of the Genocide Convention and, consequently, that the Court lacked jurisdiction *ratione materiae* to entertain them (*Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation: 32 States intervening), Preliminary Objections, Judgment, I.C.J. Reports 2024 (II)*, pp. 422-424, para. 151).

11. By an Order dated 2 February 2024, the Court fixed 2 August 2024 as the new time-limit for the filing of the Counter-Memorial of the Russian Federation.

12. Following the expiry, on 5 February 2024, of the term of office of the Member of the Court having the nationality of the Russian Federation, the Court no longer included upon the Bench a judge of the Respondent’s nationality. The Russian Federation thus proceeded to exercise the right conferred upon it by Article 31, paragraph 2, of the Statute to choose a judge *ad hoc* to sit in the case; it chose Mr Bakhtiyar Tuzmukhamedov.

13. Further to the Judgment dated 2 February 2024, the Registrar invited those States that had previously filed Declarations of intervention pursuant to Article 63 of the Statute to indicate, by 2 August 2024, whether they wished to file a new declaration, maintain their original declaration or, if necessary, file an adjusted declaration for the merits stage of the case. By the prescribed date, six States indicated to the Registrar that they wished to maintain their Declarations of intervention without adjustments, eight States filed adjusted Declarations of intervention, and nine States filed new Declarations of intervention. Furthermore, one State filed in the Registry an application for permission to intervene under Article 62 of the Statute of the Court, as well as a Declaration of intervention under Article 63 thereof.

14. By Orders dated 30 July and 9 September 2024, the President of the Court, at the request of the Russian Federation, extended the time-limit for the filing of the Counter-Memorial to 16 September and 18 November 2024, respectively. The Counter-Memorial of the Russian

Federation was filed within the time-limit as extended by the Order dated 9 September 2024. In Part Two of its Counter-Memorial, the Russian Federation, referring to Article 80 of the Rules of Court, presented counter-claims.

15. At a meeting held by the senior Judge with the Agents of the Parties on 16 January 2025, pursuant to Article 13, paragraph 1, of the Rules of Court, Ukraine indicated, *inter alia*, that it considered the counter-claims contained in the Counter-Memorial of the Russian Federation to be inadmissible and proposed that each Party be given a period of four months, successively, to file written observations on the admissibility of those counter-claims. At the same meeting, the Russian Federation agreed to that proposal.

16. By letters dated 20 January 2025, the Registrar informed the Parties that the Court had decided that the Government of Ukraine should file, by 20 May 2025 at the latest, written observations specifying the legal grounds on which it relied in contending that the Respondent's counter-claims were inadmissible, and that the Government of the Russian Federation should then present its own views on the question in writing by 22 September 2025 at the latest. Ukraine and the Russian Federation submitted their written observations on the admissibility of the latter's counter-claims within the time-limits thus fixed.

17. Having received detailed written observations from each of the Parties, the Court considered that it was sufficiently well informed of their respective positions with regard to the admissibility of the Russian Federation's counter-claims and did not deem it necessary to hold oral proceedings to hear the Parties further on the subject.

*

18. In the Application, the following requests were made by Ukraine:

“30. Ukraine respectfully requests the Court to:

- (a) Adjudge and declare that, contrary to what the Russian Federation claims, no acts of genocide, as defined by Article III of the Genocide Convention, have been committed in the Luhansk and Donetsk oblasts of Ukraine.
- (b) Adjudge and declare that the Russian Federation cannot lawfully take any action under the Genocide Convention in or against Ukraine aimed at preventing or punishing an alleged genocide, on the basis of its false claims of genocide in the Luhansk and Donetsk oblasts of Ukraine.
- (c) Adjudge and declare that the Russian Federation's recognition of the independence of the so-called 'Donetsk People's Republic' and 'Luhansk People's Republic' on 22 February 2022 is based on a false claim of genocide and therefore has no basis in the Genocide Convention.

- (d) Adjudge and declare that the ‘special military operation’ declared and carried out by the Russian Federation on and after 24 February 2022 is based on a false claim of genocide and therefore has no basis in the Genocide Convention.
- (e) Require that the Russian Federation provide assurances and guarantees of non-repetition that it will not take any unlawful measures in and against Ukraine, including the use of force, on the basis of its false claim of genocide.
- (f) Order full reparation for all damage caused by the Russian Federation as a consequence of any actions taken on the basis of Russia’s false claim of genocide.”

19. In the Memorial, the following submissions were presented by Ukraine:

“178. For the reasons set out in this Memorial, Ukraine respectfully requests the Court to:

- (a) Adjudge and declare that the Court has jurisdiction over this dispute.
- (b) Adjudge and declare that there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine.
- (c) Adjudge and declare that the Russian Federation’s use of force in and against Ukraine beginning on 24 February 2022 violates Articles I and IV of the Genocide Convention.
- (d) Adjudge and declare that the Russian Federation’s recognition of the independence of the so-called ‘Donetsk People’s Republic’ and ‘Luhansk People’s Republic’ on 21 February 2022 violates Articles I and IV of the Genocide Convention.
- (e) Adjudge and declare that, by failing to immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine, and by failing to ensure that any military or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control or direction, take no steps in furtherance of these military operations, the Russian Federation violated the independent obligations imposed on it by the Order indicating provisional measures issued by the Court of 16 March 2022.

179. Accordingly, the Court is respectfully requested to:

- (a) Order the Russian Federation to immediately terminate its use of force in and against Ukraine that it commenced on 24 February 2022.
- (b) Order the Russian Federation to immediately withdraw its military units from the territory of Ukraine, including the Donbas region.
- (c) Order the Russian Federation to ensure that any military or irregular armed units which may be directed or supported by it (including but not limited to those of the [Donetsk People’s Republic] and the [Luhansk People’s Republic]), as well as any

organizations and persons which may be subject to its control or direction, take no further steps in support of Russia's use of force in and against Ukraine that it commenced on 24 February 2022.

- (d) Order the Russian Federation to withdraw its recognition of the [Donetsk People's Republic] and the [Luhansk People's Republic].
- (e) Order the Russian Federation to provide assurances that it will not undertake any further use of force in or against Ukraine.
- (f) Order full reparation for all harm suffered by Ukraine as a consequence of the Russian Federation's use of force in the territory of Ukraine that it commenced on 24 February 2022, in an amount to be quantified in a separate phase of these proceedings.
- (g) Order full reparation for all harm suffered by Ukraine as a consequence of the Russian Federation's violations of the Court's 16 March 2022 Order indicating provisional measures, in an amount to be quantified in a separate phase of these proceedings."

20. With regard to submissions (c) and (d) in paragraph 178 of Ukraine's Memorial, as quoted in the paragraph above, the Court recalls that, in its Judgment on preliminary objections dated 2 February 2024, it ruled that it had no jurisdiction to entertain them (see paragraph 10 above).

21. In the Counter-Memorial, the following submissions were presented by the Russian Federation:

"1169. In view of the foregoing, the Russian Federation respectfully requests the Court to:

- (a) Reject Ukraine's claim that 'there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine';
- (b) Adjudge and declare that Ukraine committed genocide in violation of Articles I and III (a) of the Genocide Convention;
- (c) Adjudge and declare that Ukraine attempted to commit genocide in violation of Articles I and III (d) of the Genocide Convention;
- (d) Adjudge and declare that Ukraine is complicit in genocide in violation of Articles I and III (e) of the Genocide Convention;
- (e) Adjudge and declare that Ukraine was in conspiracy to commit genocide in violation of Articles I and III (b) of the Genocide Convention;
- (f) Adjudge and declare that Ukraine directly and publicly incited to commit genocide in violation of Articles I and III (c) of the Genocide Convention;

- (g) Adjudge and declare that Ukraine failed to prevent genocide and any other acts prohibited by Article III of the Genocide Convention in violation of Article I of the Convention;
- (h) Adjudge and declare that Ukraine failed to investigate and punish persons responsible for genocide, or for any other acts enumerated in Article III, in violation of Articles I, IV and VI of the Genocide Convention;
- (i) Adjudge and declare that Ukraine failed to enact the necessary legislation to give effect to the provisions of the Genocide Convention and to provide effective penalties for persons guilty of genocide or of any of the acts enumerated in Article III, in violation of Article V of the Genocide Convention.

1170. Accordingly, the Russian Federation requests the Court to:

- (a) Order Ukraine to immediately cease all of its actions and policies that are in breach of Articles I, II, III, IV, V and VI of the Genocide Convention;
- (b) Order Ukraine to ensure that any military or irregular armed units and other groups and individuals that may be subject to Ukraine's direction or control, likewise immediately cease any and all of the actions outlined above;
- (c) Order Ukraine to take all necessary measures to prevent the further occurrence of genocide or any of the acts enumerated in Article III of the Genocide Convention, as required by Article I of the Genocide Convention;
- (d) Order Ukraine to punish all persons responsible for genocide or any of the acts enumerated in Article III of the Genocide Convention, as required by Articles I, IV and VI of the Genocide Convention;
- (e) Order Ukraine to enact the necessary legislation to give effect to the provisions of the Genocide Convention and to provide effective penalties for persons guilty of genocide or any of the acts enumerated in Article III of the Genocide Convention, as required by Articles I and V of the Convention;
- (f) Order Ukraine to provide assurances and guarantees of non-repetition of further acts that may be in breach of the Genocide Convention;
- (g) Order Ukraine to make full reparation, including compensation, for its violations of the Genocide Convention, in an amount to be quantified in a separate phase of the proceedings."

22. Submissions (b) to (i) of paragraph 1169 of the Counter-Memorial set out the Russian Federation's counter-claims (see above).

23. With regard to the admissibility of the counter-claims presented by the Russian Federation, Ukraine, at the end of its written observations, requested the Court to “[a]djudge and declare that the counter-claims filed by the Russian Federation in its Counter-Memorial of 18 November 2024 are inadmissible” and to “[d]ismiss the Russian Federation’s counter-claims in full”.

24. For its part, at the end of its written submissions on the admissibility of its counter-claims, the Russian Federation requested the Court to adjudge and declare that those counter-claims “fulfil the requisite requirements of Article 80 of the Rules of Court and are therefore admissible”.

I. GENERAL FRAMEWORK

25. Article 80 of the Rules of Court provides as follows:

“1. The Court may entertain a counter-claim only if it comes within the jurisdiction of the Court and is directly connected with the subject-matter of the claim of the other party.

2. A counter-claim shall be made in the Counter-Memorial and shall appear as part of the submissions contained therein. The right of the other party to present its views in writing on the counter-claim, in an additional pleading, shall be preserved, irrespective of any decision of the Court, in accordance with Article 45, paragraph 2, of these Rules, concerning the filing of further written pleadings.

3. Where an objection is raised concerning the application of paragraph 1 or whenever the Court deems necessary, the Court shall take its decision thereon after hearing the parties.”

26. Counter-claims are autonomous legal acts the object of which is to submit new claims to the Court which are, at the same time, linked to the principal claims, in so far as they are formulated as “counter” claims that react to those principal claims (*Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Counter-Claims, Order of 15 November 2017, *I.C.J. Reports 2017*, p. 295, para. 18; see also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Counter-Claims, Order of 17 December 1997, *I.C.J. Reports 1997*, p. 256, para. 27).

27. Under Article 80, paragraph 1, of its Rules, the Court may entertain a counter-claim only if two requirements are met, namely that the counter-claim “comes within the jurisdiction of the Court” and that it “is directly connected with the subject-matter of the claim of the other party”. In earlier pronouncements, the Court has characterized these requirements as relating to the “admissibility of a counter-claim as such” (*Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Counter-Claims, Order of 15 November 2017, *I.C.J. Reports 2017*, pp. 295-296, para. 19; see also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Counter-Claims, Order of 17 December 1997, *I.C.J. Reports 1997*, p. 260, para. 43 (A)). The Court has accepted that the term “admissibility”, in this context, must be understood to encompass both the jurisdictional requirement and the direct-connection requirement under Article 80, paragraph 1, of

the Rules of Court (*Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Counter-Claims, Order of 15 November 2017, *I.C.J. Reports 2017*, pp. 295-296, para. 19). The requirements for the admissibility of counter-claims under Article 80 of the Rules of Court are cumulative; each requirement must be satisfied for a counter-claim to be found admissible (*ibid.*, p. 296, para. 20).

28. The Court has already had occasion to state the reasons why the admissibility of a counter-claim as such is contingent on those two requirements:

“[T]he Respondent cannot use a counter-claim as a means of referring to an international court claims which exceed the limits of its jurisdiction as recognized by the parties; and . . . the Respondent cannot use that means either to impose on the Applicant any claim it chooses, at the risk of infringing the Applicant’s rights and of compromising the proper administration of justice; and . . . it is for that reason that paragraph 1 of Article 80 of the Rules of Court requires that the counter-claim ‘comes within the jurisdiction of the Court’ and ‘that it is directly connected with the subject-matter of the claim of the other party’” (*Jurisdictional Immunities of the State (Germany v. Italy)*, Counter-Claim, Order of 6 July 2010, *I.C.J. Reports 2010 (I)*, p. 316, para. 15; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia)*, Counter-Claims, Order of 17 December 1997, *I.C.J. Reports 1997*, pp. 257-258, para. 31).

29. The Court will now consider whether the counter-claims made by the Russian Federation satisfy the above requirements. In this regard, the Court notes that the Respondent presents eight counter-claims, requesting the Court to adjudge and declare that

- (i) Ukraine committed genocide in violation of Articles I and III (*a*) of the Genocide Convention;
- (ii) Ukraine attempted to commit genocide in violation of Articles I and III (*d*) of the Genocide Convention;
- (iii) Ukraine is complicit in genocide in violation of Articles I and III (*e*) of the Genocide Convention;
- (iv) Ukraine was in conspiracy to commit genocide in violation of Articles I and III (*b*) of the Genocide Convention;
- (v) Ukraine directly and publicly incited to commit genocide in violation of Articles I and III (*c*) of the Genocide Convention;
- (vi) Ukraine failed to prevent genocide and any other acts prohibited by Article III of the Genocide Convention in violation of Article I of the Convention;

- (vii) Ukraine failed to investigate and punish persons responsible for genocide, or for any other acts enumerated in Article III, in violation of Articles I, IV and VI of the Genocide Convention; and
- (viii) Ukraine failed to enact the necessary legislation to give effect to the provisions of the Genocide Convention and to provide effective penalties for persons guilty of genocide or of any of the acts enumerated in Article III, in violation of Article V of the Genocide Convention (see paragraphs 21 and 22 above).

30. The Court further notes that all the counter-claims presented by the Russian Federation concern alleged violations of obligations arising under various provisions of the Genocide Convention and the legal consequences to be drawn therefrom. The Court also observes that both Parties address the Russian Federation's various counter-claims as a whole in their respective written observations concerning the admissibility thereof. Therefore, the Court deems it appropriate to examine the admissibility of the counter-claims of the Russian Federation together, keeping in mind, however, that there are eight separate counter-claims.

II. JURISDICTION

31. The Court recalls that its jurisdiction in the present case is founded on the compromissory clause in Article IX of the Genocide Convention.

32. The Court observes that, in order to establish whether counter-claims come within its jurisdiction, it must also examine whether the conditions contained in the instrument providing for such jurisdiction are met (see, for example, *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Counter-Claims, Order of 15 November 2017, *I.C.J. Reports 2017*, p. 311, para. 69). It follows that, in ascertaining whether it has jurisdiction to entertain the Russian Federation's counter-claims, the Court needs to examine whether the conditions set out in Article IX of the Genocide Convention have been satisfied.

33. The Court recalls that Article IX of the Genocide Convention reads as follows:

“Disputes between the Contracting Parties relating to the interpretation, application or fulfilment of the present Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.”

As the Court has stated, “[t]he existence of a dispute between the parties is a requirement for [its] jurisdiction under Article IX of the Genocide Convention” (*Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation: 32 States intervening)*, Preliminary Objections, Judgment, *I.C.J. Reports 2024 (II)*, p. 393, para. 44).

34. In its Judgment of 2 February 2024, the Court concluded that it had jurisdiction, on the basis of Article IX of the Genocide Convention, to entertain Ukraine's submission whereby the Applicant asked it to "[a]djudge and declare that there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine" (see paragraph 10 above).

35. The Court notes that the Russian Federation also relies on Article IX of the Genocide Convention to found the Court's jurisdiction in respect of its counter-claims. In its counter-claims, the Respondent alleges that the Applicant, by its conduct in the Donbas region, has violated its obligations under Articles I, III, IV, V and VI of the Convention. Ukraine denies these allegations. The Court considers that there exists a dispute between the Parties as to whether the Applicant has violated its obligations referred to above. This dispute concerns the interpretation, application or fulfilment of the Genocide Convention and thus falls within the Court's jurisdiction under Article IX thereof.

36. In light of the above, the Court concludes that the Russian Federation's counter-claims come within its jurisdiction under Article IX of the Genocide Convention.

III. DIRECT CONNECTION

37. It is for the Court to assess "whether the counter-claim is sufficiently connected to the principal claim, taking account of the particular aspects of each case" (see *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), Counter-Claims, Order of 15 November 2017, I.C.J. Reports 2017*, p. 296, para. 22).

38. In previous decisions relating to the admissibility of counter-claims as such, the Court has taken into consideration a range of factors that could establish a direct connection in fact and in law between a counter-claim and the claims of the other party for the purposes of Article 80 of the Rules (see *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), Counter-Claims, Order of 15 November 2017, I.C.J. Reports 2017*, p. 296, para. 23).

39. With respect to the question of connection in fact, the Court has considered whether the parties' respective claims relate to the same factual complex, including the same geographical area or the same time period (see *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), Counter-Claims, Order of 15 November 2017, I.C.J. Reports 2017*, p. 297, para. 24). It has also considered whether the facts relied upon by each party are of the same nature, in that they allege similar types of conduct (*ibid.*).

40. With respect to the question of connection in law, the Court has examined whether there is a direct connection between the counter-claim and the principal claim in terms of the legal principles or instruments relied upon by the parties, as well as whether the applicant and the

respondent could be considered as pursuing the same legal aim by their respective claims (see *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia)*, Counter-Claims, Order of 15 November 2017, I.C.J. Reports 2017, p. 297, para. 25).

* *

41. Ukraine contends that the Russian Federation's counter-claims are neither legally nor factually related to the principal claim. Ukraine states that the subject-matter of its claim concerns the Russian Federation's "allegations of genocide that formed the justification for its full-scale invasion" of Ukraine that started on 24 February 2022, as well as the question whether the Respondent had credible evidence to support those allegations at the time when it made them. According to the Applicant, the Russian Federation's counter-claims, by contrast, invoke Ukraine's international responsibility for various alleged offences under the Genocide Convention. In Ukraine's view, by introducing counter-claims that are not directly connected to the subject-matter of the principal claim, the Russian Federation impermissibly seeks to expand the scope of the issues before the Court and to transform the nature of the case over which the Court has found that it has jurisdiction.

42. With respect to the question of connection in fact, Ukraine states that the counter-claims lack the requisite factual connection to the principal claim under the Genocide Convention for three reasons. First, according to the Applicant, some of the facts and events relied upon by the Russian Federation in support of its contention that Ukraine committed violations of the Genocide Convention allegedly occurred after 24 February 2022 and thus fall outside of the temporal scope of the principal claim as described above. Secondly, the Applicant asserts that, to the extent the Russian Federation seeks to establish Ukraine's responsibility for events that pre-date 24 February 2022, it relies extensively on purported evidence that was collected or published after that date and thus could not have supported the Respondent's allegations of genocide committed by the Applicant at the time the Russian Federation commenced its full-scale invasion of Ukraine. Thirdly, Ukraine contends that the facts and events on which the Russian Federation relies are entirely unrelated to, and different in nature from the facts needed to resolve Ukraine's principal claim.

43. Turning to the question of connection in law, the Applicant asserts that, by its claim, it does not seek to invoke the responsibility of the Respondent for an internationally wrongful act attributable to the Russian Federation, but rather seeks a judicial finding that the Respondent "lacked credible evidence for its allegations that Ukraine committed genocide at the time Russia launched its full-scale invasion on the basis of those allegations". According to Ukraine, the Russian Federation's counter-claims seek to pursue a fundamentally different legal aim than that of the principal claim, since they are "entirely focused on establishing Ukraine's international responsibility". In the Applicant's view, the Parties' divergent legal aims are further demonstrated by the Russian Federation's focus on alleged violations of the Genocide Convention going beyond the commission

of genocide by Ukraine. According to Ukraine, there is a “clear legal distinction” between the alleged commission of a genocide and alleged violations of obligations arising under other provisions of the Genocide Convention on which the Russian Federation relies, such as conspiracy to commit and complicity in genocide, incitement to commit genocide, failure to prevent and punish genocide, and failure to enact necessary legislation and provide effective penalties for genocide.

*

44. According to the Respondent, the dispute that the Applicant has brought before the Court concerns “Ukraine’s responsibility for alleged breaches of the Genocide Convention based on the existence of credible evidence of . . . genocide”. The Russian Federation argues that the principal claim, while focusing on the question whether there is credible evidence of genocide in the Donbas region, also asks the Court to adjudge whether the Applicant is responsible for alleged acts of genocide in that region by applying the “credible evidence” standard. The Russian Federation asserts that the subject-matter of its counter-claims concerns “genocide in the Donetsk and Lugansk regions, which should be supported by credible evidence in order to invoke the responsibility of Ukraine under [the Convention]”, and thus is the same as the subject-matter of Ukraine’s principal claim.

45. With regard to the question of connection in fact between the Parties’ respective claims, the Russian Federation alleges that its counter-claims and Ukraine’s principal claim concern acts of a similar nature that form part of the same factual complex. In its view, the facts underlying the principal claim and those underlying the counter-claims need not be identical, provided that there is a “unifying factor”, such as the geographical setting or the time period in which the facts in question occurred, the actors involved, or the victims affected by those acts. The Russian Federation disagrees with Ukraine’s contention that any counter-claim that is based on facts that occurred after 24 February 2022 falls outside the temporal scope of Ukraine’s principal claim and thus has no factual connection with that claim (see paragraph 42 above). The Russian Federation considers that counter-claims referring to facts occurring over a broader period of time than the principal claims brought by an applicant — including facts which post-date those claims — may be considered part of the same factual complex as the principal claims. In the present case, according to the Respondent, such a “unifying factor” exists, since “all the facts relied upon by the Parties relate to Ukraine’s breaches of the Genocide Convention, which have been ongoing throughout the entire 2014-2025 timeframe”, namely from the moment Ukraine launched its “Anti-Terrorist Operation” in the Donbas region until the present day. The Russian Federation further contends that the facts underlying the Parties’ respective claims relate to actions committed within the same geographical area, the Donbas region, by the same or closely connected perpetrators, and against the same victims, namely “members of the Protected Groups under the Genocide Convention”. According to the Respondent, this expression means “the people of Donbass generally, the Russian, Russian-speaking and canonical Orthodox population, as well as the population of the Donetsk People’s Republic . . . and the Lugansk People’s Republic”. Finally, according to the Russian Federation, the facts relied upon by the Parties concern similar types of conduct, namely acts and omissions in breach of Ukraine’s obligations under the Genocide Convention.

46. Turning to the question of connection in law, the Russian Federation contends that its counter-claims and Ukraine's principal claim rely on the same instrument — the Genocide Convention — and on the legal principles enshrined therein. While the Russian Federation invokes certain provisions of the Genocide Convention in addition to those relied upon by Ukraine, this does not, in the Respondent's view, have a bearing on the legal connection that exists between their respective claims, since counter-claims may by their very nature broaden the scope of the issues before the Court. The Respondent further asserts that its counter-claims and Ukraine's principal claim pursue the same legal aim, namely determining whether there is evidence of genocide in the Donbas region and whether Ukraine should be held responsible for breaching its obligations under the Genocide Convention in that regard.

47. In the alternative, the Respondent argues that, even if the subject-matter of the dispute brought before the Court by Ukraine were limited to the existence of credible evidence of genocide, as alleged by the Applicant, there would still be a direct connection between the principal claim and the counter-claims. According to the Russian Federation, in such an instance, the Parties' respective claims would concern evidence of Ukraine's responsibility for breaches of the Genocide Convention; the only difference between the principal claim and the counter-claims would be the degree of certainty required of such evidence.

* * *

48. The Court notes that the Parties have expressed diverging views as to what constitutes, in the present case, the "subject-matter of the claim" of Ukraine for the purposes of Article 80, paragraph 1, of the Rules of Court. The Court recalls that, in its Judgment of 2 February 2024, it found that it had jurisdiction, on the basis of Article IX of the Genocide Convention, to entertain the submission whereby the Applicant asked it to "[a]djudge and declare that there is no credible evidence that Ukraine is responsible for committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine", and that this submission was admissible (see paragraph 10 above). The Court also observed that a declaratory judgment on whether such credible evidence exists would "clarify the rights and obligations of the Parties under the Genocide Convention, in particular whether Ukraine acted in accordance with its obligations under Article I of the Convention" (*Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation: 32 States intervening), Preliminary Objections, Judgment, I.C.J. Reports 2024 (II)*, p. 410, para. 108; see also p. 402, para. 79). The Court considers therefore that the subject-matter of the principal claim in the present case encompasses the question whether acts of genocide within the meaning of Article II attributable to Ukraine have been committed in the Donbas region, in violation of its obligations under the Genocide Convention.

49. The Court further notes that, in the present case, the Parties' claims both address the question whether certain facts, including for example alleged attacks on civilians by the Ukrainian forces in the Donbas region, have occurred and whether these facts have given rise to violations of obligations under the Genocide Convention.

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50. Turning to the question whether the counter-claims of the Russian Federation are directly connected in fact with the subject-matter of the claim of Ukraine, the Court recalls that it has found counter-claims to be admissible where their connection with the principal claim was "so direct that certain conditions which are required to exist [for the principal claim to succeed] depend precisely on facts which are raised by the counter-claim" (*Asylum (Colombia/Peru), Judgment, I.C.J. Reports 1950*, pp. 280-281). The Court has also found a direct connection between the parties' claims where a State intended to rely on the same facts and circumstances in order both to refute the allegations made by another State in its principal claims and to obtain judgment against that State (see *Oil Platforms (Islamic Republic of Iran v. United States of America), Counter-Claim, Order of 10 March 1998, I.C.J. Reports 1998*, p. 205, paras. 38-39; see also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Counter-Claims, Order of 17 December 1997, I.C.J. Reports 1997*, p. 258, para. 34). With respect to the question of connection in fact, the Court recalls that it must determine whether the parties' respective claims relate to the same factual complex, including the same geographical area or the same time period, and whether the facts relied upon by each party are of the same nature (see paragraph 39 above).

51. The Court has held that the geographical area in which the events giving rise to the counter-claims and the one in which those underlying the principal claims allegedly took place do not necessarily have to be identical, and that one could be "much wider" than the other (see *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), Judgment, I.C.J. Reports 2015 (I)*, pp. 59-60, paras. 122-123). The Court notes that, in the present case, the Parties both address the question whether certain facts occurred in the Donbas region and, if so, whether these facts gave rise to violations of obligations under the Genocide Convention. The Parties' claims thus relate to the same geographical area.

52. The Court further observes that some of the facts and events referred to by the Russian Federation in its counter-claims allegedly occurred after 24 February 2022, the date on which the Russian Federation began its "special military operation" in the territory of Ukraine (see paragraph 45 above). Ukraine, for its part, has characterized its principal claim as relating to allegations made prior to 24 February 2022 (see paragraph 42 above). The Court does not need to decide, at the present stage, the precise temporal scope of Ukraine's principal claim. For the purpose of determining whether there is a temporal connection between the Parties' claims, it is not necessary for the facts and events underlying the counter-claims and those underpinning the principal claim to have occurred during an identical period. In the Court's view, a counter-claim could be based on facts ranging over a longer period of time than that covered by the principal claim (see *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Counter-Claims, Order of 29 November 2001, I.C.J. Reports 2001*, pp. 678-679, para. 38).

53. The Court notes that, in the present case, the Parties both address the question whether certain facts occurred in the Donbas region in the period from 2014 to 24 February 2022 and, if so, whether these facts gave rise to violations of obligations under the Genocide Convention. The Court further notes that the Russian Federation also relies on events that allegedly took place after 24 February 2022 but which concern similar types of conduct in the same territory and against the same groups of people as the events that allegedly occurred before that date. Therefore, the Court considers that the Parties' respective claims present a sufficient temporal connection and thus form part of the same continuing factual complex.

54. Finally, the Court considers that the Parties' respective claims address the question of the alleged occurrence of facts of the same nature, namely the alleged treatment by Ukraine of certain groups in the Donbas region, and whether these facts gave rise to violations of obligations under the Genocide Convention.

55. In light of the above, the Court considers that the Parties' respective claims relate to the same factual complex and that there is a direct connection in fact between Ukraine's principal claim and the Russian Federation's counter-claims. Moreover, the Court notes that the Russian Federation intends to rely, for the most part, on the same evidence in order both to refute Ukraine's claim and to substantiate its own counter-claims. In this regard, as the Court has held, "the idea [of a counter-claim] is essentially to achieve a procedural economy whilst enabling [it] to have an overview of the respective claims of the parties and to decide them more consistently" (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia), Counter-Claims, Order of 17 December 1997, I.C.J. Reports 1997, p. 257, para. 30*).

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56. With respect to the question of connection in law, the Court notes that both Parties rely, in their respective claims, on the same instrument, the Genocide Convention, which is invoked both as the title of jurisdiction and as the basis of the Parties' claims on the merits. In the present case, the Applicant's principal claim focuses on whether there exists credible evidence that Ukraine has committed genocide in the Donbas region, in violation of its obligations under Article I of the Genocide Convention (see paragraph 48 above). The Russian Federation alleges that Ukraine has violated its obligations, not only under Article I, but also under Articles III, IV, V and VI of that Convention (see paragraph 21 above). The Court recalls, in this regard, that the specific provisions or legal principles invoked by each party need not be identical in order for the requirement of a direct connection in law to be satisfied (see, for example, *Alleged Violations of Sovereign Rights and Maritime Spaces in the Caribbean Sea (Nicaragua v. Colombia), Counter-Claims, Order of 15 November 2017, I.C.J. Reports 2017, p. 304, para. 45*).

57. Further, the Court considers that the Applicant and the Respondent pursue, by their respective claims, the same legal aim, namely to establish whether Ukraine is responsible for violating its obligations under the Genocide Convention. The fact that the Applicant seeks primarily a declaratory judgment that "there is no credible evidence that Ukraine is responsible for

committing genocide in violation of the Genocide Convention in the Donetsk and Luhansk oblasts of Ukraine”, while the Respondent invokes Ukraine’s international responsibility for the violation of various provisions of the Genocide Convention, does not alter this conclusion.

58. In light of the above, the Court concludes that there is a direct legal connection between Ukraine’s principal claim and the Russian Federation’s counter-claims.

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59. The Court therefore concludes that the counter-claims of the Russian Federation satisfy the requirements of Article 80, paragraph 1, of the Rules of Court, and that they are admissible as such.

IV. WHETHER THE COURT SHOULD DECLINE TO ENTERTAIN THE COUNTER-CLAIMS

60. Ukraine asserts that, even where a counter-claim satisfies the requirements of Article 80, paragraph 1, of the Rules of Court, the Court, in appropriate circumstances, has discretion to decline to entertain this counter-claim. Accordingly, in Ukraine’s view, even if the counter-claims of the Russian Federation could satisfy the requirements for admissibility, the Court should nevertheless refuse to entertain them in the “exceptional circumstances” of the present case. The Applicant states in particular that the Respondent has consistently rebuffed the peaceful resolution of the dispute between the Parties, favouring its ongoing use of force in and against Ukraine to prevent an alleged genocide. In addition, according to Ukraine, a decision by the Court to entertain the counter-claims would “delay justice for Ukraine without providing any efficiencies in resolving Russia’s claims” and would allow the Court to be “instrumentalized not for [the] purposes of peaceful resolution of a dispute, but as a complement to a strategy of forcible resolution of the same dispute”.

61. The Russian Federation contends that the Court does not have discretion to decline to entertain a counter-claim that is admissible as such. It considers that, where the conditions laid down in Article 80, paragraph 1, of the Rules are met, the Court must proceed to consider the counter-claims in question on the merits. The Respondent further contends that, even assuming, *arguendo*, that the Court has discretion not to entertain counter-claims that are admissible as such, there are no exceptional circumstances in the present case that could justify the exercise of such discretion. According to the Russian Federation, the arguments raised by Ukraine in this regard are “bare political statements” and a decision by the Court to entertain the counter-claims would not delay justice but rather ensure accountability, as well as judicial economy and the sound administration of justice.

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62. In the Court's view, in the circumstances of the present case, the sound administration of justice and the interests of procedural economy call for the simultaneous consideration of those counter-claims and the principal claim (see *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, *Counter-Claims, Order of 29 November 2001, I.C.J. Reports 2001*, p. 680, para. 44).

V. CONCLUSION

63. The Court observes that a decision on the admissibility of a counter-claim taking account of the requirements of Article 80 of its Rules in no way prejudices other questions with which the Court would have to deal during the remainder of the proceedings.

64. In order to protect the rights which third States entitled to appear before the Court derive from the Statute, the Court instructs the Registrar to transmit a copy of this Order to them.

65. The Court recalls that when it decides, in accordance with its Rules and in the interests of the sound administration of justice, to rule on the respective claims of the parties in a single set of proceedings, it also must not lose sight of the interest of the applicant to have its claims decided within a reasonable time period.

66. The Court notes that, during the meeting that the senior Judge held with the Agents of the Parties on 16 January 2025 (see paragraph 15 above), both Parties indicated that they wished to be able to file a further written pleading on the merits and agreed that each Party should be given a period of 12 months to prepare its respective written pleading in the second round.

67. Taking into account the conclusions it has reached above regarding the admissibility of the counter-claims as such, as well as the views expressed by the Parties, the Court considers it necessary for Ukraine to file a Reply and for the Russian Federation to file a Rejoinder, addressing the claims of both Parties in the current proceedings, the subsequent procedure being reserved.

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68. For these reasons,

THE COURT,

(A) By eleven votes to four,

Finds that the counter-claims submitted by the Russian Federation are admissible as such and form part of the current proceedings;

IN FAVOUR: *President* Iwasawa; *Vice-President* Sebutinde; *Judges* Tomka, Xue, Bhandari, Nolte, Charlesworth, Brant, Tladi, Hmoud; *Judge ad hoc* Tuzmukhamedov;

AGAINST: *Judges* Abraham, Gómez Robledo, Cleveland; *Judge ad hoc* Daudet;

(B) Unanimously,

Authorizes Ukraine to submit a Reply and the Russian Federation to submit a Rejoinder relating to the claims of both Parties in the current proceedings and *fixes* the following time-limits for the filing of those pleadings:

For the Reply of Ukraine, 7 December 2026;

For the Rejoinder of the Russian Federation, 7 December 2027; and

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this fifth day of December, two thousand and twenty-five, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of Ukraine and the Government of the Russian Federation, respectively.

(Signed) IWASAWA Yuji,
President.

(Signed) Philippe GAUTIER,
Registrar.

Vice-President SEBUTINDE, Judges GÓMEZ ROBLEDO and CLEVELAND, and Judge *ad hoc* DAUDET append a joint declaration to the Order of the Court; Judges ABRAHAM, GÓMEZ ROBLEDO and CLEVELAND append dissenting opinions to the Order of the Court; Judge TLADI appends a separate opinion to the Order of the Court; Judge HMOUD appends a declaration to the Order of the Court; Judge *ad hoc* DAUDET appends a dissenting opinion to the Order of the Court.

(Initialed) I.Y.

(Initialed) Ph.G.
